Montana Fish, Wildlife & Parks

Region One
490 North Meridian Rd.
Kalispell, MT 59901
(406) 752-5501
FAX: 406-257-0349
Ref:DV228-00
August 31, 2000

TO: Kenny Carpenter, PO Box 131, Proctor, 59929
Environmental Quality Council, Capitol Building, Helena, 59620-1704
Dept. of Environmental Quality, Metcalf Bldg., PO Box 200901, Helena, 59620-0901
Montana Fish, Wildlife & Parks: Director's Office, Legal Unit, and Enforcement
Evaleen Starkel, Montana Dept. of Livestock, Third Floor, Scott Hart Bldg., 301 Roberts, Helena, 59620
Mt Historical Society, State Historic Preservation Office, 225 North Roberts, Veteran's Memorial Bldg., Helena 59620
Montana State Library, 1515 East Sixth Ave., Helena, 59620-1800
John Mundinger, Consulting for Creative Solutions, LLC, 1414 Hauser Blvd., Helena, 59601
Jim Jensen, Montana Environmental Information Center, PO Box 1184, Helena, 59624
George Ochenski, PO Box 689, Helena, 59624
Wayne Hirst, Montana State Parks Foundation, PO Box 728, Libby, 59923
Montana State Parks Association, PO Box 699, Billings, 59103
Joe Gutkoski, Montana River Action Network, 304 N 18th, Bozeman, 59715
Polson City Library, PO Box 820, Polson, 59860
Lake County Commissioners, 106 Fourth Ave. E, Polson, 59860
Rep. Rick Jore, 5200 Cheff Lane, Ronan, 59864-9806
Rep. John Mercer, PO Box 460, Polson, 59860-0460
Sen. Mike Taylor, Box 152, Proctor, 59929-0152
John Smart, 125 Humbolt Loop, Helena, 59601
Gerri Backes, 720 White Basin Rd., Kalispell, 59901
Border Pipe & Supply, Attn: Randy Weaver, 27 N Central, Cut Bank, 59427
Mark Taylor, 139 N Last Chance Gulch, Helena, 59601
Ira Holt, 548 Cielo Vista, Hamilton, 59840
Stan Frasier, PO Box 5841, Helena, 59604
Jack Meuli, Box 111, Dayton, 59914
Dave Dittloff, MT Wildlife Federation, PO Box 1175, Helena, 59624
Big Sky Elk Ranch, Box 131, Moore, 59464

Ladies and Gentlemen:

The enclosed draft Environmental Assessment (EA) has been prepared for the Carpenter alternative livestock facility as proposed by Kenny Carpenter and is submitted for your consideration.

Questions and comments will be accepted or must be postmarked no later than September 21, 2000. Please direct your questions or comments to Game Warden Brian Sommers, Montana Fish, Wildlife & Parks, 490 N. Meridian Road, Kalispell, MT 59901. Thank you.

Sincerely,

Dan Vincent
Regional Supervisor

DV/nli
Enclosure

Lake

DRAFT

ENVIRONMENTAL ASSESSMENT

PROPOSED CARPENTER ELK RANCH ALTERNATIVE LIVESTOCK OPERATION

AUGUST 2000

Montana Fish, Wildlife & Parks
Region 1
490 North Meridian Road
Kalispell, Montana 59901

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SUMMARY

DRAFT ENVIRONMENTAL ASSESSMENT PROPOSED CARPENTER ELK RANCH ALTERNATIVE LIVESTOCK OPERATION

INTRODUCTION

Montana Fish, Wildlife & Parks (FWP) is required to perform an environmental analysis in accordance with the Montana Environmental Policy Act (MEPA) for each proposal for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment (Administrative Rules of Montana [ARM] 12.2.430). FWP uses environmental assessments (EAs) in the Alternative Livestock Operation licensing process to identify and evaluate environmental impacts of a proposed Alternative Livestock Operation. EAs also determine whether the impacts would be significant and whether, as a consequence, FWP would perform a more detailed environmental impact statement (EIS).

When preparing an EA, FWP reviews environmental impacts of the Proposed Action, impacts of the No Action Alternative, and impacts of other alternative actions which include recommended and/or mandatory measures to mitigate the project's impacts. A mitigated EA includes alternatives with enforceable requirements (stipulations) which reduce impacts of the Proposed Action below the level of significance. The EA may also recommend a preferred alternative for the FWP decision maker.

This EA is prepared by FWP for the proposed Carpenter Elk Ranch Alternative Livestock Operation located near Dayton, Montana based on its review of the alternative livestock operation license application.

OBJECTIVES

This EA has been prepared to serve the following purposes in accordance with FWP MEPA rules (ARM 12.2.430):

- ensure that FWP uses natural and social sciences in planning and decision making;
- to be used in conjunction with other agency planning and decision-making procedures to make a determination regarding the Proposed Action;
- assist in the evaluation of reasonable alternatives and the development of conditions, stipulations, and modifications to the Proposed Action;
- determine the need to prepare an EIS through an initial evaluation and determination of the significance of impacts associated with the Proposed Action;
- ensure fullest appropriate opportunity for public review and comment on the Proposed Action; and
- examine and document the effects of the Proposed Action on the quality of the human environment.

PUBLIC PARTICIPATION

Public involvement in the EA process includes steps to identify and address public concerns. The Draft EA will be available for public review and comment from August 31, 2000 until 5 pm September 21, 2000 from the Region 1 FWP office. Comments regarding this EA should be submitted to FWP at the location specified below:

Mr. Dan Vincent, Regional Supervisor
Fish, Wildlife & Parks, Region 1
490 North Meridian Road
Kalispell, Montana 59901
Phone: (406) 752-5501

PROPOSED ACTION AND ALTERNATIVES

PROPOSED ACTION

FWP received an initial application dated May 5, 2000 from Kenny Carpenter to build an alternative livestock facility in Lake County, Montana. FWP received the application on May 10, 2000, and accepted the application as complete in a letter to Mr. Carpenter dated June 8, 2000. The proposed alternative livestock facility is located approximately 5 miles northwest of Dayton and 1 mile west of Proctor, Montana. The property is located on Dayton Creek, about 5 miles upstream of the creek's confluence with Flathead Lake (Figure 1). The applicant lives on the proposed alternative livestock site (Figure 2).

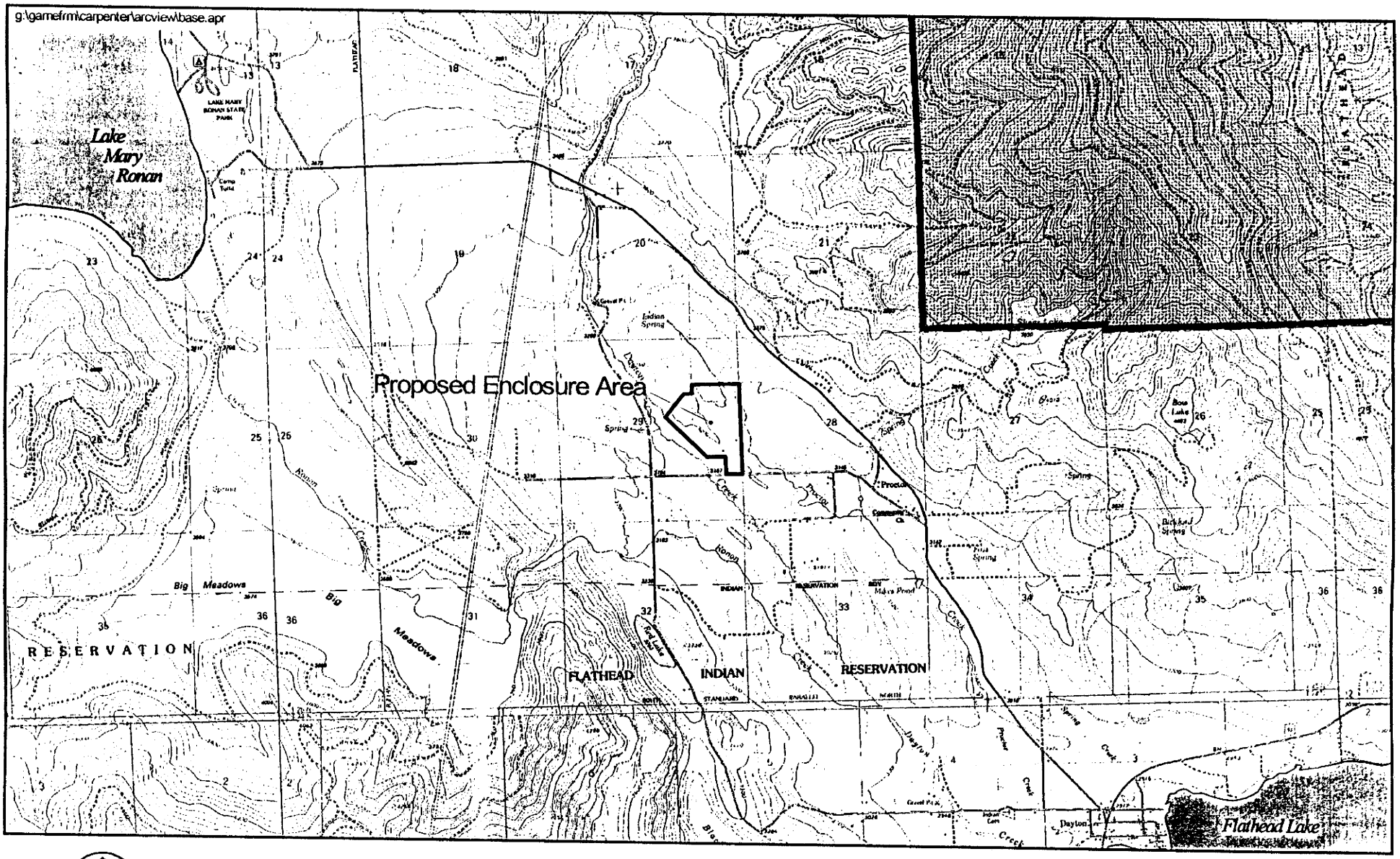
The proposed alternative livestock facility consists of 100 acres of irrigated pasture located in the SW ¼ of Section 29, Township 25 North (T25N), Range 21 West (R21W). The applicant proposes that up to 50 elk be allowed on the 100-acre area on a year-round basis, including bulls, cows, and calves. Construction of the facility is expected to be completed by September 30, 2000.

Purposes of the proposed alternative livestock facility include: breeding stock, meat and antler production, trophy sales, and other activities such as photography. The applicant has indicated, however, that shooting of alternative livestock by the public would not be allowed at the site. Alternative livestock to occupy the facility would be procured from licensed facilities within Montana; however, none have been identified at this time. Wild animals would be removed from the enclosure prior to licensing by FWP.

Fence construction would be completed in accordance with requirements of FWP under ARM 12.6.1531. Fencing would consist of 8-foot high, high-tensile, Tightlock steel wire fencing on steel posts, with higher fencing on steep slopes. The fence bottoms would be installed to provide not more than 3 inches of ground clearance. Two exterior gates would be constructed for the proposed site (Figure 2). A handling and quarantine facility would be constructed located in the southeast portion of the enclosure (Figure 2).

ALTERNATIVES

One alternative (No Action alternative) is evaluated in this EA. Under the No Action alternative, FWP would not issue a license for construction of the 100-acre alternative livestock operation as proposed. Therefore, no alternative livestock would be placed in the proposed enclosure. Implementation of the No Action alternative would not preclude other activities allowed under local, state, and federal laws to take place at the proposed alternative livestock site.



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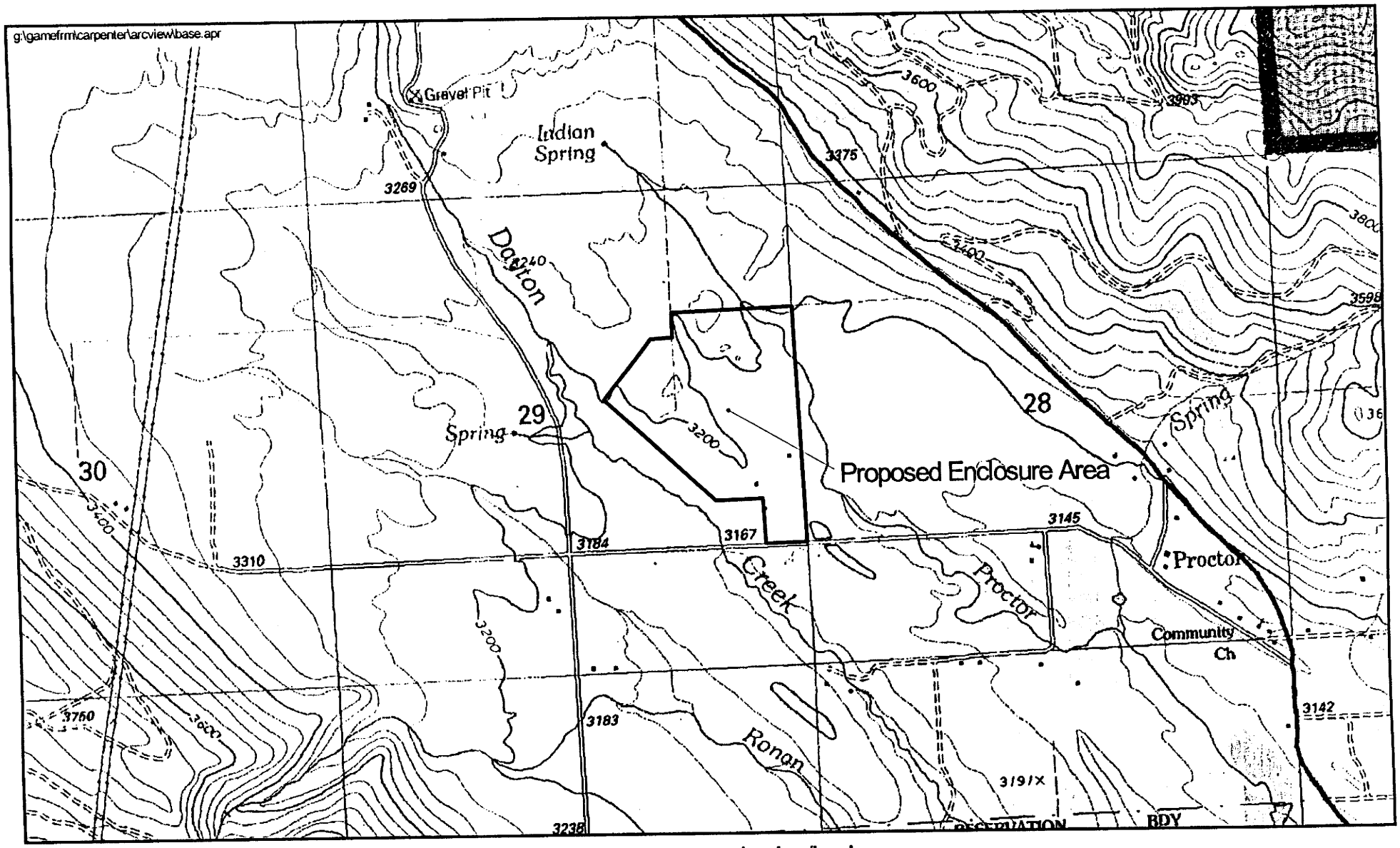
Note: Ownership data derived from Bureau of Land Management Montana Public Lands, 1:100,000 Scale Quadrangles. Topographic base derived from U.S.G.S. 1:24,000 scale quadrangles.

Land Ownership

- Private
- State
- Reservation

Grey shades area on base map represents Non-National Forest System lands within the National Forest. Inholdings may exist in other National or State reservations.

Site Map
Carpenter
Alternative Livestock Facility
Proctor, Lake County, Montana
FIGURE 1



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Note: Land use data comes from the U.S. Geological Survey's Geographic Information Retrieval and Analysis System (GIRAS), 1:250,000 Scale Quadrangles. Topographic base derived from U.S.G.S. 1:24,000 scale quadrangles.

Landuse/Landcover

- Water
- Grass / Brush Rangeland
- Mixed Forest
- Crop/Pasture

Grey shades area on base map represents Non-National Forest System lands within the National Forest. Inholdings may exist in other National or State reservations.

Land Use / Land Cover
Carpenter
Alternative Livestock Facility
Proctor, Lake County, Montana
FIGURE 2

PURPOSE AND NEED OF THE PROPOSED ACTION

Construction of the Carpenter Elk Ranch alternative livestock operation would be a private commercial enterprise that would provide for domestic elk breeding stock, meat production, and antler production. These activities do not currently occur at the property for which the proposed operation would be located.

ROLE OF FWP AND DOL

Montana Fish, Wildlife & Parks (FWP) is the lead agency in preparing this EA for the proposed project. This document is written in accordance with the Montana Environmental Quality Council (EQC) MEPA Handbook and FWP statutory requirements for preparing an EA under Title 75, Chapter 1, Part 2 Montana Code Annotated (MCA) and FWP rules under ARM 12.6.1520 et seq. The FWP has primary jurisdiction over alternative livestock sites with regard to licensing, reports and record keeping, exterior fencing, removal of game animals, inspection, and enforcement of these functions (87-4-408, MCA).

FWP shares regulatory responsibilities for new and expanding alternative livestock operations with the Montana Department of Livestock (DoL). The DoL is responsible for regulating the health, transportation, and identification of alternative livestock (87-4-408, MCA). Rules for DoL to implement regarding alternative livestock facilities are included in ARM 32.4.101 et seq. During the application process, all quarantine area plans and specifications are submitted to DoL for approval.

AFFECTED ENVIRONMENT

The proposed Carpenter Elk Ranch alternative livestock facility is located on leased land about 5 miles northwest of Dayton, Montana. This section summarizes primary environmental resources in the project area.

LAND RESOURCES

The proposed alternative livestock operation is located on approximately 100 acres of irrigated pastureland in the floodplain associated with Dayton Creek. The property lies in a north-south trending drainage on the eastern side of Dayton Creek (Figure 1). Slopes are flat to moderate throughout the proposed enclosure area. The majority of the site is in the moderate slope class (less than 20 percent).

This area was historically used for forge production and livestock grazing. Soils have developed on glacial alluvium and have medium to coarse textured surface layers. Soil units are mantled and are highly productive if soil surface layers are not displaced or removed. Wetter, silty soil, such as that found in the northwestern portion of the site, generally has low strength and compacts easily.

WATER RESOURCES

The proposed alternative livestock facility is located in the Dayton Creek watershed approximately midway (i.e., 2 to 3 miles) between Lake Mary Ronan and Flathead Lake. Average annual precipitation at Polson and Kalispell is about 15.3 inches. The proposed enclosure area straddles a low divide between Dayton Creek near the east side and Proctor Creek, 700 feet of which flows through the northeast corner of the site. These drainages extend southeast to Flathead Lake. The head of Proctor Creek is located about ½-mile north of the proposed enclosure and is fed by a spring. Overland flow occurs across portions of the site during periods of snow-melt and heavy precipitation events.

The primary aquifer in the project area is bedrock of Precambrian-age Belt Series Formation. Surficial glacial deposits, however, contain small quantities of shallow groundwater. Water for the proposed alternative livestock would be obtained from a well at the site. A listing of groundwater rights within 1

mile of the proposed enclosure shows less than 10 wells, most of which are completed to depths greater than 200 feet. Direction of groundwater flow in the vicinity of the proposed alternative livestock facility is southeasterly toward Dayton Creek and Flathead Lake. Depth to groundwater in bedrock is generally greater than 100 feet, with limited quantities of shallow water in unconsolidated alluvial and glacial sediments. During the spring runoff period, sediment in low-lying areas adjacent to the creek can become saturated to the surface, and surface water can leave the enclosure area.

Dayton Creek has been identified by the Confederated Salish and Kootenai Tribes (CSKT) and FWP for restoration work due to its importance as an historic cutthroat trout spawning and rearing stream. Riparian inventories conducted in 1997 by the Montana Riparian Association in Dayton Creek indicate that the hydrology, soil, and vegetation ratings for the stream were respectively non-functional, functional, and intermediate.

VEGETATION RESOURCES

Most of the proposed enclosure area has moderately rolling (10 to 20 percent) topography and contains irrigated pasture, primarily grass species such as Kentucky bluegrass, orchardgrass, smooth brome, and timothy. Some scattered shrub communities (e.g., snowberry) and cottonwood trees also occur within the enclosure area. The property has historically been used to pasture livestock and grow hay (Figure 2).

Annual forage production for the proposed facility is estimated at 2,000 to 3,000 pounds per acre; therefore, total forage produced on the proposed 100-acre enclosure would be between 200,000 and 300,000 pounds (100 to 150 tons) on an annual basis. No federally-listed threatened or endangered plant species were observed within the proposed enclosure. The proposed site contains areas of scattered spotted knapweed.

WILDLIFE RESOURCES

The proposed site and surrounding land is used by white-tailed deer, elk, moose, and mule deer during all or parts of the year. Winter range for white-tailed deer has been delineated adjacent and to the south and east of the property (Figure 3). Elk also use the area during winter and spring seasons, and known elk and mule deer winter range is located within one mile of the property to the north, west, and south (Figure 3). Moose likely are transient in the area during part of the year. Other wildlife species known or expected to use the area, at least on a transient basis, include black bear, mountain lion, coyote, and fox. Gray wolves, bald eagles, and lynx are federally-listed as threatened or endangered and may also be transient through the general area (Gael Bissel, FWP, pers. comm., 2000).

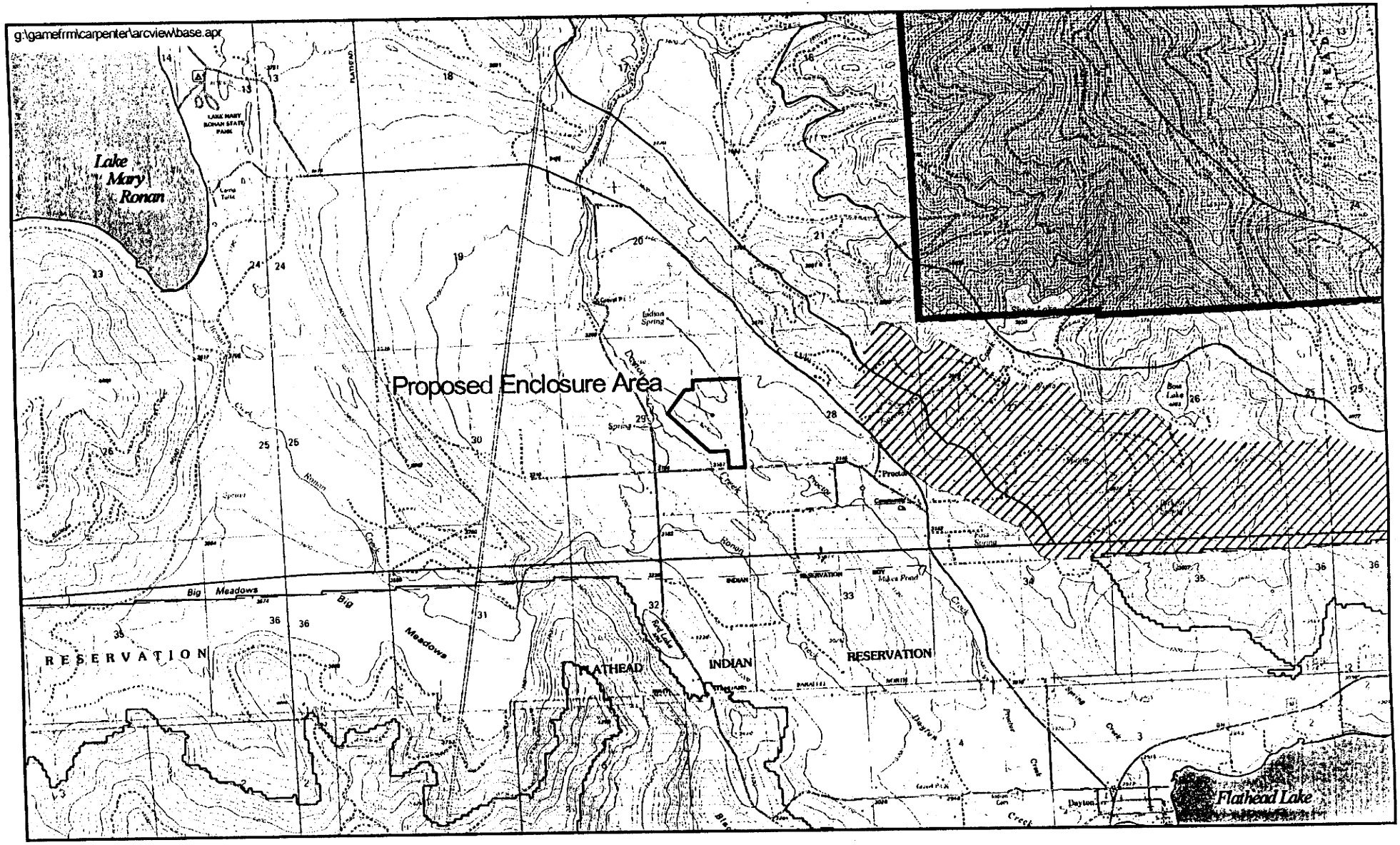
LAND USE/COMMUNITY

Most land immediately surrounding the proposed alternative livestock facility is private agricultural land that is grazed by domestic livestock (Figure 1). Land in the general area has historically been used by local farmers and ranchers, though recent ingress of residents on smaller subdivided parcels has also occurred on private land to the north, west, and south of the site. The two nearest permanent residences are located approximately ¼-mile west of the site. The small town of Dayton and Highway 93 are located approximately 3 miles southeast of the site, and the Flathead Indian Reservation is located 1 mile to the south.

RISK/HEALTH HAZARDS

Domestic livestock are currently pastured in the project area. There are resident populations of elk and deer in the vicinity of the proposed enclosure. These domestic and wild animals located outside of the proposed enclosure potentially could be subject to disease transmission from alternative livestock. In order for disease transmission to occur, the organism causing the disease needs to be present. Any

alternative livestock introduced to this proposed facility would be tested for brucellosis and tuberculosis and would be in compliance with DoL regulations (monitoring for chronic wasting disease, etc.) prior to movement to the facility.



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Note: Big game data comes from the Montana Fish, Wildlife & Parks 1:100,000 and 1:250,000 Scale map data. Topographic base derived from U.S.G.S. 1:24,000 scale quadrangles.

White-tail Deer Winter Range

Elk & Mule Deer - Summer and Winter Habitat

Grey shades area on base map represents Non-National Forest System lands within the National Forest. Inholdings may exist in other National or State reservations.

Big Game Distribution
Carpenter
Alternative Livestock Facility
Proctor, Lakeside County, Montana
FIGURE 3

ENVIRONMENTAL CONSEQUENCES

Only primary resources that have potential adverse effects from the Proposed Action are summarized in this section. A detailed discussion of environmental consequences is contained in *Part II* of this EA.

LAND RESOURCES

Approval of the alternative livestock application would have minor impacts to land and soil resources. Impacts to the soil resource may occur if alternative livestock use the low-lying areas along the drainages during periods of saturated conditions in the spring and early summer. Saturated soil is generally susceptible to compaction under heavy use. Soil within the majority of the enclosure generally is subject to wind and water erosion during portions of each year. If vegetation is removed by heavy animal use, soil may erode and enter Proctor and Dayton Creeks. Soil loss would impact potential productivity of the site.

WATER RESOURCES

Increased runoff and erosion could occur in some areas of the proposed enclosure if pasture use is such that vegetative cover is diminished. The proposal to pasture up to 50 alternative livestock on the 100-acre site would locally reduce vegetative cover to a minor degree. Areas of the enclosure that would be most susceptible to erosion problems are on the wet areas and along the creek banks. The extent to which erosion would occur is dependent primarily on animal density, season, and duration of use. Impacts would increase if more than 50 animals are placed in the enclosure. Surface water would leave the enclosure area during rain and snowmelt periods and could impact Proctor and Dayton Creeks. Sediment, alternative livestock fecal matter, and nutrient-enriched water may have a minor effect on the quality of water in the vicinity of the alternative livestock site (dependent upon animal density and waste management practices), primarily during periods of snowmelt and major precipitation events. The fence would cross Proctor Creek at two locations and would require approval by FWP as game-proof at these sites.

VEGETATION RESOURCES

The occupancy period for alternative livestock would be on a year-long basis. It is estimated that the proposed site could supply all the domestic elk forage needs when fully stocked with 50 animals. The maximum stocking rate of approximately 0.5 animal per acre is considered moderate under existing vegetative conditions and would, assuming irrigation coverage to most of the site be maintained in relatively good condition, both in terms of plant species composition and productivity. Supplemental feed would be used to sustain the animals during the non-growing season and some feed should be provided during the growing season to help reduce animal use of the existing vegetation and to reduce potential impacts on ground cover. There are no plans to physically alter the native plant communities on the proposed facility (i.e., crop or hay cultivation). There are no known threatened or endangered plant species in this area.

Noxious weed spread is possible at this site and, under an intensive grazing regime, with no weed management, would be expected to invade and subsequently increase in abundance. Weeds would spread quickly to disturbed areas around any site that animals are fed or handled. Weed seeds could also be imported into the area with animal feed. The applicant would develop and implement a weed control program on the ranch, including vegetative seeding of exposed areas. If BMPs are properly implemented and a reasonable stocking rate is maintained as proposed by the applicant, impacts to vegetation would be minor.

WILDLIFE RESOURCES

The exclusion of wild game from 100 acres would displace a few resident deer, elk, and moose from moderate to good quality habitat in the drainage. Game moving through the area would be forced to travel a minimal distance to get to the same point(s) along the travel routes. Mountain lions, bears, and wolves could pass through this area and may be attracted to the alternative livestock.

The proposed enclosure fence crosses moderate (10 to 20 percent) slopes. The potential for impacts to area wildlife due to ingress/egress risk would be mitigated through strict adherence to fence construction, maintenance, and monitoring procedures.

A concern regards the escape of captive elk and the potential for interbreeding of wild elk with domestic elk whose genetic make-up has been altered through several generations of selective breeding or through interbreeding with domestic red-deer. Although red-deer are now prohibited species in Montana, historically some alternative livestock operators did bring red-deer or red-deer hybrids into their facilities. The concern regarding red-deer hybrids is partially mitigated through current regulations. Although the impact of genetic pollution on wild elk herds is unknown, the effect is undesirable in terms of maintaining the genetic integrity of existing populations.

LAND USE/COMMUNITY

The proposed facility would be compatible with existing agricultural land uses. No significant conflicts should result between operation of the alternative livestock facility and the agricultural or residential areas, including the small town of Dayton located approximately 3 miles to the southeast. Additional homes could be constructed in the vicinity of the facility on private land. Potential effects of the alternative livestock facility on adjacent property values is difficult to evaluate because some nearby property owners may like the idea of the alternative livestock operation, whereas others might find it undesirable.

Some local residents may feel the alternative livestock operation would decrease their quality of life. Neighbors harboring negative feelings about the operation would perceive a loss in their sense of social well-being. However, some neighbors and local residents may like the idea of an alternative livestock facility and enjoy viewing the elk. These people may feel the facility would add to their quality of life.

RISK/HEALTH HAZARDS

There is potential for transmission of water-borne disease pathogens, if present, to be transported into and out of the ranch, primarily via Proctor and Dayton Creeks. This is expected to be a minor risk because of current animal disease testing requirements. The route of chronic wasting disease (CWD) transmission at this time is unknown; therefore, the potential for transmission by soil, water, or other media cannot be determined, nor impacts disclosed.

The risk of disease (e.g., brucellosis and tuberculosis) being passed from alternative livestock to wildlife and domestic livestock would be minimal if fence integrity is maintained and the recommended mitigation measures described in this EA are followed. Potential for disease transmission from alternative livestock is also mitigated through DoL disease testing requirements. Each facility is required to have access to an isolation pen (quarantine facility) on the property or an approved quarantine plan to isolate any animals that are imported or become ill.

There is a minor risk of infection to hunters who field dress deer or elk infected with tuberculosis or brucellosis. Routine brucellosis and tuberculosis testing requirements for alternative livestock offer a measure of surveillance that minimizes that risk. Another potential minor risk to human health would be the attraction of predators to the proposed enclosure and the proximity of residences to the site.

Therefore, increased encounters between predators (e.g., mountain lions and bears) and humans could occur as a result of the alternative livestock enclosure.

CUMULATIVE EFFECTS

The Proposed Action would add to impacts associated with existing agricultural practices and residential development in the area, and which would result in potential impacts that are individually minor, but not cumulatively significant.

EA CONCLUSION

MEPA and alternative livestock licensing statutes require FWP to conduct an environmental analysis for proposed alternative livestock operations as described in the *Introduction* of this *Summary* section (p. 1). FWP prepares EAs to determine whether a project would have a significant effect on the environment. If FWP determines that a project would have a significant impact that could not be mitigated to less than significant, then FWP would prepare a more detailed EIS before making a decision.

Based on the criteria evaluated in this EA, an EIS would not be required for the proposed construction of the Carpenter Elk Ranch alternative livestock facility. The appropriate level of analysis for the Proposed Action is a mitigated EA because all impacts of the Proposed Action have been accurately identified in the EA, and all identified significant impacts, if any, would be mitigated to minor or none.

STIPULATIONS AND MITIGATION MEASURES

The stipulations and/or mitigation measures described in this section address potential impacts identified for the proposed Carpenter Elk Ranch alternative livestock operation. FWP can require stipulations, if necessary, to ensure that the fence enclosure is maintained in game-proof condition. Potential minor impacts from the Proposed Action are addressed as mitigation measures that are strongly recommended to remain in compliance with state and federal environmental laws, but are not required.

REQUIRED STIPULATIONS

None

RECOMMENDED MITIGATION MEASURES

The following recommended mitigation measures address minor impacts identified in this EA for the proposed construction of the Carpenter Elk Ranch alternative livestock facility for resources that have the potential to be affected by the Proposed Action:

Land Resources

- Maintain a reasonable stocking rate within the enclosure to minimize changes in soil structure from compaction and potential increases in runoff and erosion to surface water drainages from disturbed ground. A "reasonable stocking rate" could include internal fencing and rotational grazing strategies that limit periods of time that alternative livestock would be using any one pasture in order to reduce potential for compaction, devegetation and erosion.

Water Resources

- Maintain a reasonable stocking rate in the area to mitigate potential impacts from runoff and fecal matter. Potential water quality impacts also could be minimized by disposing of dead animals and

excess fecal material at a site that is isolated from surface water and groundwater (disposal must meet county regulations for solid waste if applicable). On-site disposal of dead alternative livestock would be regulated by DoL under ARM 32.4.1002.

- For any areas that may have erosion and sedimentation problems, utilize best management practices (BMPs) where surface water could enter Proctor and Dayton Creeks. The BMPs may include riparian fencing, earth berms, straw bale dikes, vegetative buffer zones, and/or silt fences to be used on a seasonal basis.

- Clean debris promptly that may collect at the fenced stream crossings to reduce the potential for flooding and fence damage.

Vegetation Resources

- Monitor the alternative livestock site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program should be implemented, if not already in place, to control the weeds.

- Provide certified weed-free supplemental feed and minerals to the alternative livestock on a seasonal basis to reduce excessive grazing on preferred pasture plants.

- Create/utilize interior pastures such that rotational grazing strategies can be implemented to reduce adverse impacts to vegetation. In particular, allow only seasonal use of saturated soil in wetland areas.

Wildlife Resources

- Store feed away from exterior fences or enclose in bear-resistant containers or buildings.

- Feed alternative livestock at interior portions of the enclosure and not along the perimeter fence.

- Remove dead animals, excess fecal material, and waste feed from the alternative livestock facility and deposit at a site not likely to be used by humans or domestic and wild animals.

Risk/Health Hazards

- Mitigation measures recommended above for *Water Resources* and *Wildlife Resources* are applicable to this section. In addition, risk of disease epidemic or heavy parasite infections among alternative livestock can be minimized by maintaining a reasonable stocking rate in relation to the enclosure size, periodic removal of manure from concentration areas, and development of a disease immunization and parasite treatment protocol as applicable to alternative livestock.

- Licensee should inspect the perimeter fence on a regular basis (e.g., weekly) and immediately after or during events that have a greater probability of damaging the fence (e.g., wind storms and significant precipitation events) to ensure fence integrity with respect to surface water runoff, burrowing animals, predators, and other game animals. Fence inspection should follow a written fence monitoring plan that is submitted to and reviewed by FWP prior to issuance of the license. The fence monitoring plan should include contingency actions that address evacuations due to natural disasters. If major repairs are required of the perimeter fence due to falling tree(s) or heavy runoff, no alternative livestock should be placed back into the affected pasture(s) until the fence is inspected for game-proof condition by a FWP representative. Additional remedial actions may be required by FWP if ingress or egress occurs at the facility.

Cultural & Historical Resources

- If archeological artifacts are observed during construction of the enclosure fence or from other activities, work should stop in the area and the discovery reported to the Montana Historical Society in Helena. If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take photographs and preserve the artifact(s).

PART I. ALTERNATIVE LIVESTOCK OPERATION LICENSE APPLICATION

ENVIRONMENTAL ASSESSMENT CHECKLIST

Montana Fish, Wildlife & Park's authority to regulate alternative livestock operations is contained in sections 87-4-406 through 87-4-424, MCA and ARM 12.6.1501 through 12.6.1519.

1. **Name of Project:** Carpenter Elk Ranch Alternative Livestock Operation

   Date of Acceptance of Completed Application: June 8, 2000

2. **Name, Address and Phone Number of Applicant(s):**

   Kenny Carpenter
   P.O. Box 131
   Proctor, Montana 59929

3. **If Applicable:**

   Estimated Construction/Commencement Date: Summer 2000

   Estimated Completion Date: Fall 2000

   Is this an application for expansion of existing facility or is a future expansion contemplated?

   New Facility

4. **Location Affected by Proposed Action (county, range and township):**
   Lake County, 100 acres in the following:
   NE¼ of SE¼ of Section 29; Township 25 North, Range 21 West

5. **Project Size:** Estimate number of acres that would be directly affected that are currently:

   (a) Developed:
   residential....._____ acres
   industrial....._____ acres

   (b) Open Space/Woodlands/Areas....___ acres

   (c) Wetlands/Riparian Areas..... 2____ acres

   (d) Floodplain..._____ acres

   (e) Productive:
   irrigated cropland. 98 _____ acres
   dry cropland..... _____ acres
   forestry..... _____ acres
   rangeland..... _____ acres
   other....._____ acres

6. **Map/site plan:**

The following maps are included in the introductory summary of this EA:

Figure 1: Site Map
Figure 2: Land Use / Land Cover
Figure 3: Big Game Distribution

7. **Narrative Summary of the Proposed Action or Project including the Benefits and Purpose of the Proposed Action:**

FWP received an initial application dated May 5, 2000 from Kenny Carpenter to construct an alternative livestock facility in Lake County, Montana. FWP received the application on May 10 2000, and accepted the application as complete in a letter to the Mr. Carpenter dated June 8, 2000. The proposed construction of the Carpenter Elk Ranch alternative livestock facility is located approximately 5 miles northwest of the town of Dayton, Montana and 1 mile west of Proctor, Montana. The property is located on Dayton Creek, about 5 mile upstream of the creek's discharge into Flathead Lake (Figure 1). The applicant lives adjacent to the proposed alternative livestock site (Figure 2).

The proposed alternative livestock facility is located in the SE¼ of Section 29, Township 25 North (T25N), Range 21 West (R21W) and would consist of 100 acres. The applicant proposes that up to 50 elk be allowed in the 100-acre area on a year-round basis, including bulls, cows, and calves. The enclosure is expected to be completed by the fall of 2000.

Purposes of the proposed alternative livestock facility include: breeding stock, meat and antler production, trophy sales, and other activities such as photography. The applicant has indicated, however, that shooting of alternative livestock by the public would not be allowed at the site. Alternative livestock to occupy the facility would be procured from licensed facilities; however, none have been identified at this time. Wild animals would be removed from the enclosure prior to licensing by FWP.

Fence construction would be completed in accordance with requirements of FWP under ARM 12.6.1531. Fencing would consist of 8-foot high, high-tensile, Tightlock steel wire fencing on steel posts. Two exterior gates would be constructed for the proposed fence (Figure 2)). A handling and quarantine facility located in the southeastern pasture of the proposed facility (Figure 2).

8. **Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction:**

(a) Permits:

Agency Name	Permit	Approval Date and Number
Department of Livestock in	Approval of quarantine and handling facility	Using quarantine facility nearby facility (license no. 134)

(b) Funding:

Agency Name	Funding Amount
None	

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Agency Name	Type of Responsibility
- Montana Department of Livestock (DoL)	disease control
- Montana Department of Environmental Quality (DEQ)	water quality, air quality waste management
- Montana State Historical Preservation Office (SHPO)	cultural resources
- Montana Department of Natural Resources and Conservation (DNRC)	water rights; floodplain development soil conservation
- Natural Resource Conservation Service (NRCS)	stream crossings
- Lake County Conservation District	weed control
- Lake County Weed Control District	tax assessment
- Lake County Tax Department	water rights; floodplain development
- Confederated Salish and Kootenai Tribes	

9. **List of Agencies Consulted During Preparation of the EA:**

Montana Department of Livestock
Montana Department of Environmental Quality
Montana State Historical Preservation Office
Montana Department of Natural Resources and Conservation
Confederated Salish and Kootenai Tribes

REFERENCES:

Carpenter, Kenny, 2000. Application for construction of Alternative Livestock Operation, dated May 5, 2000.

PART II. ENVIRONMENTAL REVIEW

This section of the EA presents results of an environmental review of the proposed construction of the Carpenter Elk Ranch alternative livestock operation (Proposed Action). The assessment evaluated direct and indirect impacts and cumulative effects of the Proposed Action on the following resources of the physical environment: land, air, water, vegetation, fish and wildlife; and the following concerns of the human environment: noise, land use, human health risk, community impacts, public services and taxes, aesthetics and recreation, and cultural and historical resources. Impacts were determined to fall in one of four categories: unknown, none, minor and significant. For the purposes of this EA, and in accordance with ARM 12.6.1525, these terms are defined as follows:

EA DEFINITIONS

Cumulative Effects: Collective impacts on the physical and human environment of the Proposed Action when considered in conjunction with other past and present actions related to the Proposed Action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impacts statement evaluation, or permit processing procedures.

Unknown Impacts: Information is not available to facilitate a reasonable prediction of potential impacts.

Significant Impacts: A determination of significance of an impact in this EA is based on individual and cumulative impacts from the Proposed Action. If the Proposed Action results in significant impacts that can not be effectively mitigated, FWP must prepare an EIS. The following criteria are considered in determining the significance of each impact on the quality of the human environment:

- severity, duration, geographic extent and frequency of occurrence of the impact;
- probability that the impact would occur if the Proposed Action occurs;
- growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative effects;
- quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources or values;
- importance to the state and to society of each environmental resource or value that would be affected;
- any precedent that would be set as a result of an impact of the Proposed Action that would commit FWP to future actions with significant impacts or a decision in principle about such future actions; and
- potential conflict with local, state, or federal laws, requirements, or formal plans.

Reasonable Stocking Rate: The density of animals appropriate to maintain vegetative cover in pasture condition that minimizes soil erosion from major precipitation events and snowmelt. Factors to consider in determining an overall reasonable stocking rate include vegetation type and density, ground slope, soil type, and precipitation.

A. PHYSICAL ENVIRONMENT

1. LAND RESOURCES Will Proposed Action result in:	Impact Unknown	None	Minor	Potentially Significant	Can Impact be Mitigated	Comment Index
a. Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?			X		Yes	1(b)
c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?			X		Yes	1(d)

AFFECTED ENVIRONMENT:

The proposed Carpenter Elk Ranch alternative livestock operation would be located on approximately 100 acres of irrigated pastureland in the Dayton Creek watershed. The property lies in a north-south trending drainage on the eastern side of Dayton Creek (Figure 1). Slopes are flat to moderate throughout the proposed enclosure area. The majority of the site is in the moderate slope class (less than 20 percent). The elevation of the site ranges from 3170 to 3240 feet above mean sea level. This area has been used for forage production and livestock grazing.

General topography of the area is dominated by glacial features resulting from the late Wisconsin-age Cordilleran ice sheet which covered the land surfaces of northwest Montana to an elevation of 5100 feet (Johns, 1970), and subsequent alluvial features produced as the ice melted and retreated. Bedrock is predominantly metasedimentary rock of the Precambrian-age Belt Series Formation.

Soil in the area was mapped by the Natural Resource Conservation Service (NRCS, 1985) and includes the Polson-Vincom silt loams, Niarada-Kerl Complex, and Bohnly silt loam. All three soil units present a high risk of corrosion to uncoated steel (NRCS, 1985).

Polson-Vincom silt loams occupy approximately 55 percent of the proposed enclosure, primarily in the northeast and southwest portions of the property. These soils are found on alluvial fans and stream terraces. Both Polson and Vincom soils are very deep (more than 60 inches), well drained and were formed in glaciolacustrine environments. The hazard from wind and water erosion is high to moderate.

Niarada-Kerl complex soils occupy around 25 percent of the proposed enclosure, primarily in the northwest and southeast corners of the property. Both soil types are very deep, well drained soils on glacial moraines. Niarada soils are a gravelly loam. Kerl soils are a silt loam. A linear unit of Kerl silt loam, approximately 15 percent of the proposed enclosure, occupies the central portion of the site. The

hazard from wind and water erosion is high to moderate in both Niarada and Kerl soils.

Bohnly silt loam occupies about 5 percent of the area and is found near the northeast corner of the property. Bohnly series soils consist of very deep, poorly drained soils on flood plains. These soils formed in silty alluvium and are susceptible to occasional brief flooding. They have a high runoff potential and are not subject to blowing because of rock fragments at the surface.

PROPOSED ACTION:

1(b) & 1(d) – Approval of the alternative livestock application would have minor impacts to land and soil resources. Impacts to the soil resource may occur if alternative livestock use the low-lying areas along the drainages during periods of saturated conditions in the spring and early summer. Saturated soil is generally susceptible to compaction under heavy use. Soil within the majority of the enclosure generally is subject to wind and water erosion during portions of each year. If vegetation is removed by heavy animal use, soil may erode and enter Proctor and Dayton Creeks. Soil loss would likely impact potential productivity of the site.

NO ACTION:

Under the No Action Alternative, the current condition of the property would not change substantially. Forge production and livestock grazing would continue to occur.

CUMULATIVE EFFECTS:

The cumulative effect of using the proposed area as an alternative livestock operation is expected to be minor. The proposed area does not contain any unique or significant soil or land resources that would be lost due to the proposed land use change.

COMMENTS:

The high risk of corrosion to uncoated steel should be considered when designing the exterior fence. Uncoated steel posts may corrode with time in these soils.

REQUIRED STIPULATIONS:

None

RECOMMENDED MITIGATION MEASURES:

Maintain a reasonable stocking rate within the enclosure to minimize changes in soil structure from compaction and potential increases in runoff to surface water drainages from erosion of disturbed ground. A "reasonable stocking rate" could include internal fencing and rotational grazing strategies that limit periods of time that alternative livestock would be using any one pasture in order to reduce potential for compaction, devegetation and erosion.

REFERENCES:

NRCS, 1985. Soil Survey of Lake County Area, Montana. U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS).

2. AIR RESOURCES Will Proposed Action result in:	Impact				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Emission of air pollutants or deterioration of ambient air quality? (also see 13 (c))		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				

AFFECTED ENVIRONMENT:

The proposed alternative livestock site is located about 5 miles northwest of Dayton, Montana. Most land immediately surrounding the site is private agricultural land that is grazed by domestic livestock. Recent ingress of residents on smaller subdivided parcels has occurred on private land to the north, west, and south of the site. The two nearest permanent residences are located approximately ¼-mile west of the site. Highway 93 is located approximately 5 miles southeast east of the site (Figures 1 and 2). The area has no apparent history of air quality problems, and is not classified for air quality attainment status (Montana DEQ, 1997).

NO ACTION:

The current level of minor odors in the area from the existing domestic cattle grazing activities would remain the same under the No Action Alternative.

COMMENTS:

No stipulations or mitigation measures are required or recommended for air resources.

REFERENCES:

Montana Department of Environmental Quality (DEQ). 1997. Montana Air Quality Non-Attainment Areas. Revised January 1997.

3. WATER RESOURCES Will Proposed Action result in:	Impact				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?			X		Yes	3(a)
b. Changes in drainage patterns or the rate and amount of surface runoff?			X		Yes	3(b)
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?			X		Yes	3(f)
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
I. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				

AFFECTED ENVIRONMENT:

The proposed alternative livestock facility is located in the Dayton Creek watershed approximately midway (i.e., 2 to 3 miles) between Lake Mary Ronan and Flathead Lake. Average annual precipitation at Polson and Kalispell is about 15.3 inches, and average annual total snowfall ranges from about 26 inches at Polson to 59 inches at Kalispell (Western Regional Climate Center, 2000). The proposed enclosure area straddles a low divide between Dayton Creek near the east side and Proctor Creek, 700 feet of which flows through the northeast corner of the site (Figure 2). These drainages extend southeast to Flathead Lake. The head of Proctor Creek is located about ½-mile north of the proposed enclosure and is fed by a spring. Overland flow occurs across portions of the site during periods of snow-melt and heavy precipitation events.

The primary aquifer in the project area is bedrock of Precambrian-age Belt Series Formation. Surficial glacial deposits, however, contain small quantities of shallow groundwater. Water for the proposed alternative livestock would be obtained from a well at the site. A listing of groundwater rights within 1 mile of the proposed enclosure shows less than 10 wells, most of which are completed to depths greater than 200 feet (Montana Department of Natural Resources and Conservation [DNRC], 2000). Direction of groundwater flow in the vicinity of the proposed alternative livestock facility is southeasterly toward Dayton Creek and Flathead Lake. Depth to groundwater in bedrock is generally greater than 100 feet, with limited quantities of shallow water in unconsolidated alluvial and glacial sediments. During the spring runoff period, sediment in low-lying areas adjacent to the creek can become saturated to the surface.

Dayton Creek has been identified by the Confederated Salish and Kootenai Tribes (CSKT) and FWP for restoration work due to its importance as an historic cutthroat trout spawning and rearing stream. Riparian inventories conducted in 1997 by the Montana Riparian Association in Dayton Creek indicate that the hydrology, soil, and vegetation ratings for the stream were respectively non-functional, functional, and intermediate. For a complete description of these rankings, inventory methodologies and results, and a description of the Dayton Creek watershed, see DuCharme et al. (1998).

Montana's Section 303(d) list of impaired water bodies shows that Flathead Lake (A-1 use classification) is impaired for aquatic life, with probable causes due to nutrients, siltation, algal growth, and low dissolved oxygen (Montana Department of Environmental Quality [DEQ], 2000). Numerous water rights are held for groundwater wells and surface water within a mile of the proposed alternative livestock facility (Montana DNRC, 2000). Relevant surface water rights are for Dayton and Proctor Creeks downstream of the site.

PROPOSED ACTION:

3(a) & 3(b) – Increased runoff and erosion could occur in some areas of the proposed enclosure if pasture use is such that vegetative cover is diminished. The proposal to pasture up to 50 alternative livestock on the 100-acre site would locally reduce vegetative cover to a minor degree. Areas of the enclosure that would be most susceptible to erosion problems are on the wet areas and along the creek banks. The extent to which erosion would occur is dependent primarily on animal density, season, and duration of use. Impacts would increase if more than 50 animals are placed in the enclosure. Surface water would leave the enclosure area during rain and snowmelt periods and could impact Proctor and Dayton Creeks.

The elk ranch exterior fence would cross Proctor Creek in two locations (Figure 2). The fence design at these locations must be approved by FWP as game-proof. A "310 Permit" from the County Conservation District may be required for completion of the fence stream crossings if the stream is considered perennial. Filling or dredging of any waters of the U.S., including wetlands, may require a "404 Permit" from the U.S. Army Corps of Engineers (COE).

Erosion along the creek channel at each fence crossing site during high flows could compromise the stability of the fence structure. In addition, the fence could collect debris (e.g., wood and ice) flowing down the stream and could create a dam-effect whereby water backs up behind the debris and increases pressure on the fence. This may affect fence integrity.

3(f) – Sediment, alternative livestock fecal matter, and nutrient-enriched water may have a minor effect on the quality of water in the vicinity of the alternative livestock site (dependent upon animal density and waste management practices), primarily during periods of snowmelt and major precipitation events.

NO ACTION:

Current hydrologic conditions are not expected to change under the No Action alternative; domestic livestock would likely continue to graze in the proposed area.

CUMULATIVE EFFECTS:

The proposed facility, in combination with the existing agricultural uses in the area, is expected to have minor cumulative impacts on water resources within the Dayton Creek watershed.

COMMENTS:

Due to potential minor impacts identified above from increased runoff and fecal matter, several mitigation measures are recommended. Other water quality protection practices may be required by the Montana DEQ if it is determined that a CAFO permit is necessary or if significant water quality problems develop. Refer to "Guide to Animal Waste Management and Water Quality Protection in Montana" (Montana DEQ, 1996) and "Common Sense and Water Quality, A Handbook for Livestock Producers" (Montana Department of Health and Environmental Sciences, 1994) for further information on mitigation measures and CAFO permits. The following management practices are recommended to minimize risk of discharging pollutants to state water:

REQUIRED STIPULATIONS: None.

RECOMMENDED MITIGATION MEASURES:

- Maintain a reasonable stocking rate in the area to mitigate potential impacts from runoff and fecal matter. Potential water quality impacts also could be minimized by disposing of dead animals and excess fecal material at a site that is isolated from surface water and groundwater (disposal must meet county regulations for solid waste if applicable). On-site disposal of dead alternative livestock would be regulated by DoL under ARM 32.4.1002.

- For any areas that may have erosion and sedimentation problems, utilize best management practices (BMPs) where surface water could enter Proctor Creek and Dayton Creek. The BMPs may include riparian fencing, earth berms, straw bale dikes, vegetative buffer zones, and/or silt fences to be used on a seasonal basis.

- Clear debris promptly that may collect at the fenced stream crossings to reduce the potential for flooding and fence damage.

REFERENCES:

DuCharme, Lynn S., Barry Hansen and Ladd Knotek, 1998. Dayton Creek Watershed Restoration; Progress Report May 1997 to June 1998. Prepared by Confederated Salish and Kootenai Tribes and Montana Department of Fish, Wildlife & Parks.

Montana Department of Environmental Quality (DEQ), 2000. Draft Montana 303D List, A Compilation of Impaired and Threatened Waters in Need of Restoration. April 2000.

Montana DEQ, 1996. Guide to Animal Waste Management and Water Quality Protection in Montana. Helena, MT.

Montana Department of Health and Environmental Sciences (DHES), 1994. Common Sense and Water Quality, A Handbook for Livestock Producers. Water Quality Division. Helena, MT.

Montana Department of Natural Resources and Conservation (DNRC), 2000. Computer File Search of Water Rights for Sections 28, 29, 32, & 33, T25N, R21W. Obtained on-line from Internet. August 2000.

Western Regional Climate Center, 2000. Monthly Climate Summary for Kalispell, Montana (244563) and Polson (246635). Obtained on-line from Internet. August 2000.

4. VEGETATION Will Proposed Action result in:	Impact				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			X		Yes	4(a)
b. Alteration of a plant community?			X		Yes	4(b)
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?			X		Yes	4(e)

AFFECTED ENVIRONMENT:

Most of the proposed enclosure area has moderately rolling (10 to 20 percent) topography and contains irrigated pasture vegetation, primarily grass species such as Kentucky bluegrass, orchardgrass, smooth brome, and timothy. Some scattered shrub communities (e.g snowberry) and cottonwood trees occur within the enclosure area as well. The property has historically been used to pasture livestock and grow hay (Figure 2).

Annual forage production for the proposed facility is estimated at 2,000 to 3,000 pounds per acre; therefore, total forage produced on the proposed 100-acre enclosure would be between 200,000 and 300,000 pounds (100 to 150 tons) on an annual basis. No federally-listed threatened or endangered plant species were observed within the proposed enclosure site. The proposed site does contain scattered clumps of spotted knapweed.

PROPOSED ACTION:

4(a) & (b) – The occupancy period for alternative livestock would be on a year-long basis. It is estimated that the proposed site could supply all the domestic elk forage needs when fully stocked with 50 animals. The maximum stocking rate of approximately 0.5 animals per acre is considered moderate under existing vegetative conditions and would, assuming irrigation coverage to most of the site be maintained in relatively good condition, both in terms of plant species composition and productivity. Supplemental feed would be used to sustain the animals during the non-growing season and some feed should be provided during the growing season to help reduce animal use of the existing vegetation and to reduce potential impacts on ground cover. There are no plans to physically alter the native plant communities on the proposed facility (i.e., crop or hay cultivation). There are no known threatened or endangered plant species in this area.

4(e) - Noxious weed spread is possible at this site and, under an intensive grazing regime, with no weed management, would be expected to invade and subsequently increase in abundance. Weeds would spread quickly to disturbed areas around any site that animals are fed or handled. Weed seeds could

also be imported into the area with animal feed. The applicant would develop and implement a weed control program on the ranch, including vegetative seeding of exposed areas. If BMPs are properly implemented and a reasonable stocking rate is maintained as proposed by the applicants, impacts to vegetation would be minor.

NO ACTION:

Current vegetative communities are not expected to change appreciably for the No Action alternative.

CUMULATIVE EFFECTS:

The general area is used for farming, ranching, and rural housing. Livestock grazing is common on the majority of land in the area, and in some cases, impacts to vegetation are occurring. Cumulative impacts to vegetation due to this proposed operation could develop if supplemental feed is not provided to alternative livestock; however, the magnitude of these effects is expected to be minor on a cumulative basis.

REQUIRED STIPULATIONS:

None

RECOMMENDED MITIGATION MEASURES:

- Monitor the alternative livestock site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program should be implemented, if not already in place, to control the weeds.
- Provide certified weed-free supplemental feed and minerals to the alternative livestock on a seasonal basis to reduce excessive grazing on preferred pasture plants.
- Create/utilize interior pastures such that rotational grazing strategies can be implemented to reduce adverse impacts to vegetation. In particular, allow only seasonal use of saturated soil in wetland areas.

5. FISH & WILDLIFE Will Proposed Action result in:	Impact				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?			X		No	5(b)
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?			X		No	5(e)
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?			X		Yes	5(g)

AFFECTED ENVIRONMENT:

The proposed site and surrounding land is used by white-tailed deer, elk, moose, and mule deer during all or parts of the year. Winter range for white-tailed deer has been delineated adjacent and to the south and east of the property (Figure 3). Elk also use the area during winter and spring seasons, and known elk and mule deer winter range is located within one mile of the property to the north, west, and south (Figure 3). Moose likely are transient in the area during part of the year. Other wildlife species known or expected to use the area, at least on a transient basis, include black bear, mountain lion, coyote, and fox. Gray wolves, bald eagles, and lynx are Federally listed as threatened or endangered and may also be transient through the general area (Gael Bissel, FWP, pers. comm., 2000).

PROPOSED ACTION:

5(b) & (e) – The exclusion of wild game from 100 acres would displace a few resident deer, elk, and moose from moderate to good quality habitat in the drainage. Game moving through the area would be forced to travel a minimal distance to get to the same point(s) along the travel routes. Mountain lions, bears, and wolves could pass through this area and may be attracted to the alternative livestock.

The proposed enclosure fence crosses moderate (10 to 20 percent) slopes. The potential for impacts to area wildlife due to ingress/egress risk would be mitigated through strict adherence to fence construction, maintenance, and monitoring procedures.

A concern regards the escape of captive elk and the potential for interbreeding of wild elk with domestic elk whose genetic make-up has been altered through several generations of selective breeding or through interbreeding with domestic red-deer. Although red-deer are now prohibited species in Montana,

historically some alternative livestock operators did bring red-deer or red-deer hybrids into their facilities. The concern regarding red-deer hybrids is partially mitigated through current regulations. Although the impact of genetic pollution on wild elk herds is unknown, the effect is undesirable in terms of maintaining the genetic integrity of existing populations.

5(g) – Construction of the enclosure would result in conditions that increase stress on a relatively minor basis to deer and elk living in this area by eliminating some habitat.

NO ACTION:

No wildlife-related impacts are expected to occur under the No Action alternative. Use of the general area for ranching and farming would continue.

CUMULATIVE EFFECTS:

The general area is used for farming, ranching, and rural housing, and cumulative impacts associated with the addition of a 100 acre facility to raise alternative livestock is considered minor.

REQUIRED STIPULATIONS:

None

RECOMMENDED MITIGATION MEASURES:

The following management practices will help to minimize impacts to free-ranging wildlife species. Implementing these mitigation measures, most of which are standard practices, is highly recommended.

- Store feed away from exterior fences or enclose in bear-resistant containers or buildings.
- Feed alternative livestock at interior portions of the enclosure and not along the perimeter fence.
- Remove dead animals, excess fecal material, and waste feed from the alternative livestock facility and deposit at a site not likely to be used by humans or domestic and wild animals.
- If native big game congregate at the fence (e.g. during breeding season), remove domestic bulls to interior portions of the enclosure.

SUMMARY OF POTENTIAL IMPACTS TO WILDLIFE:

1) Wildlife use of the area and potential for through-the-fence contact with alternative livestock (consider year-round use, traditional seasonal habitat use, and location of travel routes and migration corridors).

Given year-round use of the area by deer and occasionally elk, the potential for nose-to-nose contact through the fence is considerable and increases during the winter months. This risk of contact can be reduced by feeding alternative livestock at interior portions of enclosures rather than along exterior fences, and by closely monitoring exterior fences on a frequent basis.

Frequency of fence line contact between alternative livestock and wildlife and the risk that this contact might result in disease transmission is mitigated by disease testing requirements. In order for disease transmission to occur, the organism causing the disease needs to be present. Any alternative livestock introduced to this proposed facility will be tested for brucellosis and tuberculosis and would be in compliance with DoL regulations (monitoring for CWD, etc.) prior to movement to the facility.

2) Potential for escape of alternative livestock or ingress of wildlife (consider site-specific factors that could reduce the effectiveness of perimeter fences built to the standards outlined in Rule 12.6.1503A, including steepness of terrain, winter snow depths/drifting, susceptibility of fences to flood damage, etc.).

The proposed exterior fence alignment would follow low-gradient slopes (<20 percent). Typically, winter snow depths in this area are less than 16 inches. However, blowing and drifting snow could be a concern during many of central Montana's winters. Proctor Creek extends through a corner of the proposed enclosure, but is not expected to cause damage to the fence due to flooding or erosion. Frequent monitoring of the fence, however, should be performed during periods of high flow and a contingency plan to address evacuation during natural disasters should be prepared and reviewed by FWP.

3) Proportion (%) of the total habitat area currently used by wildlife that will be enclosed or otherwise impacted.

Wildlife currently use many thousands of acres in the area, even during the more restricted winter months. The proportion of habitat excluded by the proposed facility constitutes far less than 1 percent of the area.

REFERENCES:

Bissell, Gael, 2000. Wildlife Biologist with Montana Fish, Wildlife & Parks. Personal Communication with Pat Mullen of Maxim Technologies, Inc. July 2000.

B. HUMAN ENVIRONMENT

6. NOISE & ELECTRICAL EFFECTS Will Proposed Action result in:	Impact				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Increase in existing noise levels?		X				
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				

AFFECTED ENVIRONMENT:

No impacts to existing noise levels are expected, except from bull elk bugling during the mating season. Given the relatively few close neighbors in the vicinity, bugling noise is not expected to be a problem.

PROPOSED ACTION:

No adverse impacts to existing noise levels are expected from the Proposed Action. No electrical effects would occur as a result of the proposed facility.

NO ACTION:

No changes in existing noise levels or electrical effects are expected for the No Action alternative.

COMMENTS:

No stipulations or mitigation measures are required or proposed as a result of noise or electrical effects.

7. LAND USE Will Proposed Action result in:	Impact				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Conflict with any existing land use that would be adversely affected by the proposed action?		X				
e. Adverse effects on or relocation of residences?	X				NA	7(e)

AFFECTED ENVIRONMENT:

The proposed alternative livestock site is located about 3 miles northwest of the small town of Dayton, Montana. Most land immediately surrounding the proposed site is private agricultural land that is grazed by domestic livestock. Land in the general area has historically been used by local farmers and ranchers, though recent ingress of residents on smaller subdivided parcels has also occurred on private land to the north, west, and south of the site. The two nearest permanent residences are located approximately ¼-mile west of the site.

Highway 93 is located approximately 3 miles southeast of the site (Figures 1 and 2). The Flathead Indian Reservation of the Confederated Salish and Kootenai Tribes (CSKT) is located 1 mile south of the alternative livestock site and state-owned public land is located approximately 2 miles to the north and west (Figure 1). Reservation land and public land are typically used for recreational purposes (mostly hunting and fishing) and leased for grazing activities. The proposed alternative livestock site apparently is not zoned for any specific use.

PROPOSED ACTION:

7(e) – The proposed facility would be compatible with existing agricultural land uses. No significant conflicts should result between operation of the ranch and the agricultural or residential areas. Additional homes could be constructed in the vicinity of the facility on private land. Potential effects of the alternative livestock facility on adjacent property values is difficult to evaluate because some nearby property owners may like the idea of the operation, whereas others might find it undesirable.

NO ACTION:

Under the No Action alternative, historic uses for the area (e.g., agriculture and residential) would likely continue.

CUMULATIVE EFFECTS:

No cumulative effects are expected on land use as a result of the Proposed Action.

COMMENTS:

No stipulations or mitigation measures are required or recommended for land use.

8. RISK/HEALTH HAZARDS Will Proposed Action result in:	Impact				Can Impact be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Risk of dispersal of hazardous substances (including, but not limited to chemicals, pathogens, or radiation) in the event of an accident or other forms of disruption?			X		Yes	8(a)
b. Creation of any hazard or potential hazard to domestic livestock?			X		Yes	8(b)
c. Increased risk of contact and disease between elk ranch animals and wild game?			X		Yes	8(c)
d. Creation of any hazard or potential hazard to human health?			X		Yes	8(d)

AFFECTED ENVIRONMENT:

See Section 3 (*Water Resources*), Section 5 (*Fish & Wildlife*), and Section 7 (*Land Use*) for information that describes the affected environment with respect to this section (*Risk/Health Hazards*). It should be noted that public shooting of alternative livestock is not proposed by the applicant at the facility.

PROPOSED ACTION:

8(a) – There is potential for transmission of water-borne disease pathogens, if present, to be transported into and out of the alternative livestock facility, primarily via Dayton Creek. In order for disease transmission to occur, the organism causing the disease needs to be present. This is expected to be a minor risk because of current animal disease testing requirements, including testing prior to movement to the facility. The route of chronic wasting disease (CWD) transmission at this time is unknown; therefore, the potential for transmission by soil, water, or other media cannot be determined, nor impacts disclosed.

8(b) & 8(c) – The risk of disease (e.g., brucellosis and tuberculosis) being passed from alternative livestock to wildlife and domestic livestock would be minimal if fence integrity is maintained and the recommended mitigation measures described in this EA are followed. Potential for disease transmission from alternative livestock is also mitigated through DoL disease testing requirements. Each facility is required to have access to an isolation pen (quarantine facility) on the property or an approved quarantine plan to isolate any animals that are imported or become ill. The state veterinarian can require additional testing and place herds under strict quarantine should problems arise. In addition to the standard requirements for alternative livestock ranches, and suggested mitigation measures proposed in this EA, it should be noted that there are significant economic incentives for the applicant to follow best management practices. The inadvertent acquisition of diseased animals would risk a substantial investment in breeding stock and the facilities required to maintain those animals.

At this time, Montana is classified as a Tuberculosis Accredited Free State; this disease does not exist in alternative livestock or traditional livestock in Montana. CWD has been detected in alternative livestock and free-ranging deer and elk in several states or provinces. CWD has been affecting wild deer and elk in Colorado and Wyoming for at least 17 years. Through the surveillance placed on all alternative livestock operations by DoL in April 1999, CWD was detected in a Montana alternative livestock facility. The CWD affected herd was depopulated. All Montana alternative livestock 16 months of age or older that die, are subject to mandatory testing for CWD. There is currently no evidence of CWD transmission to domestic livestock.

8(d) – There is a minor risk of infection to hunters who field dress deer or elk infected with tuberculosis or brucellosis. Routine brucellosis and tuberculosis testing requirements for alternative livestock offer a measure of surveillance that minimizes that risk. Another potential minor risk to human health would be the attraction of predators to the proposed enclosure and the proximity of residences to the site. Therefore, increased encounters between predators (e.g., mountain lions and bears) and humans could occur as a result of the alternative livestock enclosure.

NO ACTION:

Risk/health hazards would not occur from the No Action alternative, other than those that may be associated with the existing land use.

CUMULATIVE EFFECTS:

No cumulative risk/health hazards are expected as a result of the Proposed Action.

REQUIRED STIPULATIONS:

None

RECOMMENDED MITIGATION MEASURES:

The mitigation measures recommended in Section 5 (*Fish & Wildlife*) are applicable to this section. In addition, risk of disease epidemic or heavy parasite infections among domestic elk can be minimized by maintaining a reasonable domestic elk stocking rate in relation to the enclosure size, periodic removal of manure from concentration areas, and development of a disease immunization and parasite treatment protocol as applicable to alternative livestock.

9. COMMUNITY IMPACT Will Proposed Action result in:	Impact				Can Impact be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Changes in historic or traditional recreational use of an area?		X				
f. Changes in existing public benefits provided by affected wildlife populations and wildlife habitats (educational, cultural or historic)?		X				
g. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				

AFFECTED ENVIRONMENT:

The proposed alternative livestock facility is located in Lake County, approximately 3 miles northwest of the small town of Dayton. The alternative livestock operation would not have a noticeable affect on the community. Local residents in the vicinity of the alternative livestock site appreciate their space and outdoor recreational activities provided by the natural environment and its resources, such as hunting, fishing, hiking, photographing, and wildlife and landscape viewing.

PROPOSED ACTION:

Some local residents may feel the alternative livestock operation would decrease their quality of life. Neighbors harboring negative feelings about the operation would perceive a loss in their sense of social well-being. However, some neighbors and local residents may like the idea of an alternative livestock facility and enjoy viewing the elk. These people may feel the facility would add to their quality of life.

NO ACTION:

Although there would be no alternative livestock facility as proposed by the applicants with the No Action alternative, denial of the application may be welcomed by those who may be opposed to it, if any. Ill feelings, however, may be harbored by people who may favor the facility.

CUMULATIVE EFFECTS:

Cumulative effects on the community are expected to be negligible as a result of the proposed alternative livestock operation.

COMMENTS:

No stipulations or mitigation measures are required or recommended.

10. PUBLIC SERVICES & TAXES Will Proposed Action result in:	Impact				Can Impact be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. A need for new or altered government services (specifically an increased regulatory role for FWP and Dept. of Livestock)?			X		NA	10(a)
b. A change in the local or state tax base and revenues?			X		NA	10(b)
c. A need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				

AFFECTED ENVIRONMENT:

The applicants currently pay property taxes for the land proposed for the alternative livestock site, and would pay taxes on the animals after they are placed on the site. Prevailing land use within the proposed enclosure site is agricultural, which has a relatively low average appraisal value.

PROPOSED ACTION:

10(a) – Approval of the alternative livestock facility would increase time and expenses spent by FWP and DoL personnel inspecting and monitoring the operation. Since neither FWP or DoL has the option of hiring additional employees to handle the increased workload that would be created by the facility, activities of the current staff would need to be re-prioritized to meet the increased demand created by operation.

10(b) – Placing alternative livestock in the proposed facility would increase the annual tax contribution from the property, with collected taxes going toward the state, county, and local school district. Alternative livestock placed on the proposed facility would require Class 6 property tax and per capita tax on the animals to be paid. Additional Class 6 taxes and per capita taxes would be paid for any alternative livestock born on the facility, with the Class 6 taxes collected going to the local county and the per capita taxes going to the state. The annual tax contribution from Class 6 and per capita taxes would increase due to the facility.

NO ACTION:

Under the No Action alternative, FWP and DoL would not have to inspect and monitor this alternative livestock facility. The current status of tax payments for this property would remain for the No Action alternative.

CUMULATIVE EFFECTS:

No cumulative impacts are expected on public services and taxes from the proposed alternative livestock project, other than the taxes mentioned above.

COMMENTS:

No stipulations or mitigation measures are required or recommended.

11. AESTHETICS & RECREATION Will Proposed Action result in:	Impact				Can Impact be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?	X				NA	11(a)
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings?	X				NA	11(a)

AFFECTED ENVIRONMENT:

The proposed alternative livestock site is located ¼-mile south of the highway between Lake Mary Ronan and Dayton, and within 2 miles of both state-owned land and the Flathead Indian Reservation (Figure 1). Reservation land and public land typically are used for recreational purposes (mostly hunting and fishing) by tribal members and the general public. General access to these areas is from private and county roads. Local residents in the vicinity of the alternative livestock site appreciate their space and outdoor recreational activities.

PROPOSED ACTION:

11(a) – The presence of the alternative livestock and 8-foot high fence is not expected to result in any major adverse impact to the area's visual character or recreation opportunities. Some nearby residents may not appreciate having an 8-foot high fence to view. Persons who might enjoy viewing elk or other alternative livestock may consider the proposed facility a recreational opportunity.

NO ACTION:

No adverse impacts to aesthetics or recreation are expected under the No Action alternative.

CUMULATIVE EFFECTS:

No cumulative impacts are expected.

COMMENTS:

No stipulations or mitigation measures are required or recommended.

12. CULTURAL & HISTORICAL RESOURCES Will Proposed Action result in:	Impact				Can Impact be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Destruction or alteration of any site, structure or object of prehistoric, historic, or paleontological importance?	X				Yes	12(a)
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X			—	

AFFECTED ENVIRONMENT:

A file search was conducted by the State Historic Preservation Office (SHPO) for the proposed project area. Results of this search show there are no previously recorded historic or archaeological sites within the designated project site (SHPO 2000). According to SHPO, the absence of cultural properties does not mean that they don't exist, but rather may reflect the lack of any previous cultural resource inventory.

PROPOSED ACTION:

12(a) – According to SHPO (2000), there is a potential for the project to impact cultural properties. It recommends that a reconnaissance survey be conducted in order to determine whether or not such sites exist and if they will be impacted.

NO ACTION:

No impacts to cultural resources are expected from the No Action alternative unless other disturbances occur within the property.

CUMULATIVE EFFECTS:

No additional impacts from past, present and reasonably foreseeable activities near the proposed alternative livestock facility are anticipated.

REQUIRED STIPULATIONS: None

RECOMMENDED MITIGATION MEASURES:

If archeological artifacts are observed during construction of the facility fence or from other activities, work should stop in the area and the discovery reported to: Montana Historical Society, Historic Preservation Office; 1410 8th Avenue; P.O. Box 201202; Helena, Montana 59620; phone (406) 444-7715.
If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take photographs and preserve the artifact(s).

REFERENCES:

Montana State Historic Preservation Office (SHPO), 2000. Letter from Phillip Melton (SHPO, Helena, MT) to Nancy Ivy (Montana Fish, Wildlife & Parks), dated June 12, 2000.

C. SUMMARY

13. SUMMARY Would Proposed Action, considered as a whole:	Impact				Can Impact be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources which create a significant effect when considered together or in total)		X				
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?			X		— Yes	13(b)
c. Potentially conflict with the substantive requirements or any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts would be proposed?	X					13(d)
e. Generate substantial debate or controversy about the nature of the impacts that would be created?			X		Yes	13(e)

PROPOSED ACTION:

13(b) – Refer to discussions in Section 5 (Fish/Wildlife) and in Section 8 (*Risk/Health Hazards*).

13(d) – The precedent for permitting alternative livestock ranches with the knowledge that there are some uncertainties about the potential risk of disease transmission between captive and wild animals already is established. The alternative livestock industry is established in Montana and the legislature recognizes that the production of alternative livestock provides a viable economic opportunity for any private property owner as well as the traditional livestock producers who are interested in diversifying their ranch productivity (MCA 87-4-431). Statutes and regulations that govern the industry presume that it is appropriate to permit new operations, with reasonable restrictions to protect Montana's interests in its resident wildlife.

13(e) – Montana FWP and DoL acknowledge that the permitting of alternative livestock ranches generates public controversy. Some issues are particularly controversial when alternative livestock facilities block migration routes or consume significant areas of land historically utilized by wild game. Because the proposed Carpenter Elk Ranch alternative livestock facility would not significantly block big game migration routes or consume a significant portion of land utilized by wild game, the controversial nature of the Proposed Action is minor.

Montana FWP and DoL also acknowledge that there are uncertainties regarding diseases of wildlife and alternative livestock, and the transmissibility of disease. The agencies agree that an outbreak of livestock disease in one or more wildlife populations would be a significant, negative effect. However, with careful attention to current regulations and implementation of the stipulations and mitigation measures specified in this EA, the transmission of disease from alternative livestock on the proposed alternative livestock ranch to wildlife is a very unlikely event.

NO ACTION:

Potential risks or adverse effects which are uncertain would not occur from the No Action alternative, other than those associated with the existing land use.

CUMULATIVE EFFECTS:

Cumulative impacts could develop; however, the magnitude of these effects is expected to be minor on a cumulative basis (see Section 5 – *Fish & Wildlife*).

REQUIRED STIPULATIONS:

None

RECOMMENDED MITIGATION MEASURES:

See Section 5 (*Fish & Wildlife*).

SUMMARY EVALUATION OF SIGNIFICANCE CRITERIA

a. Does the Proposed Action have impacts that are individually minor, but cumulatively considerable? (A project may result in impacts on two or more separate resources which create a significant effect when considered together or in total).

No. Impacts from this operation are expected to be minor on a cumulative basis.

b. Does the Proposed Action involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?

Yes. A potential risk or adverse effect that is uncertain, but extremely hazardous if it were to occur, would be the spread of a disease or parasite from domestic livestock to wild elk or deer. The risk and appropriate measures to mitigate the risk are discussed in Section 5 (*Fish & Wildlife*), Section 8 (*Risk/Health Hazards*), and Section 13 (*Summary*) of this EA.

c. Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternatives would be implemented:

The No Action alternative would avoid many of the potential impacts listed above. This site would likely be managed for continued livestock grazing. The No Action alternative would probably not exclude wildlife from this site.

d. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

This section provides an analysis of impacts to private property by proposed restrictions or stipulations in this EA as required under 75-1-201, MCA, and the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The analysis provided in this EA is conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (Environmental Quality Council (EQC), 1996). A completed checklist designed to assist state agencies in identifying and evaluating proposed agency actions, such as imposed stipulations, that may result in the taking or damaging of private property, is included in Appendix A. Mitigation measures described in this section address both minor and significant impacts. Stipulations, if any, are designed to ensure that the fence enclosure is maintained in game-proof condition. Most potential minor impacts from the Proposed Action are addressed as mitigation measures that are recommended, but not required.

STIPULATIONS

No stipulations would be required for the Proposed Action based on an assessment of potential impacts contained in this EA.

PART III. EA CONCLUSION

1. **Based on the significance criteria evaluated in this EA, is an EIS required? YES / NO**

   No. The appropriate level of analysis for the Proposed Action is a mitigated EA because:

   - All impacts of the Proposed Action have been accurately identified in the EA; and
   - All identified significant impacts would be mitigated to minor or none.

2. **Describe the level of public involvement for this project if any and, given the complexity and the seriousness of the environmental issues associated with the Proposed Action, is the level of public involvement appropriate under the circumstances?**

   Upon completion of the Draft EA, a notice is sent to adjoining landowners, local newspapers, and other potentially affected interests, explaining the project and asking for input during a 21-day comment period which extends from August 31, 2000 until 5 pm September 21, 2000. The Draft EA is also available to the public from the FWP addresses and phone numbers listed below and in the *Summary* section of this EA (p. 2), and through the State Bulletin Board System during the public comment period.

3. **Duration of comment period if any:** 21 days

4. **Name, title, address and phone number of the Person(s) Responsible for Preparing the EA:**

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APPENDIX A

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following requirements:

No stipulations are required for this Proposed Action based on the evaluation of potential impacts contained in this EA.

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO	
X		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	X	3. Does the action deprive the owner of all economically viable uses of the property?
	X	4. Does the action deny a fundamental attribute of ownership?
	X	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is **NO**, skip questions 5a and 5b and continue with question 6.]
		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	X	6. Does the action have a severe impact on the value of the property?
	X	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is **NO**, do not answer questions 7a-7c.]
		7a. Is the impact of government action direct, peculiar, and significant?
		7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
		7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with § 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.